

### **REMARKS**

Applicants respectfully request reconsideration. Claims 1-24 were previously pending in this application. By this amendment, Applicants are canceling claims 9 and 24 and non-elected claims 10-13, 18, 22, and 23 without prejudice or disclaimer. Claims 1-4, 7, 8, and 19-21 have been amended. New claim 25-28 has been added. As a result, claims 1-8, 14-17, 19-21, and 25-28 are pending for examination with claims 1, 6, 7, 14, and 25 being independent claims. No new matter has been added.

#### ***Objections to the Drawings***

The Examiner objected to drawings because “The entire trap sits upon a rounded base that includes slots and adhesive strips” is not shown in the Figures as stated at page 14, lines 15-16. Applicants have not amended the drawings because it is believed that this is shown at least in FIG. 3. For clarification, Applicants have amended the paragraph beginning on page 14, line 6 to reflect this.

Accordingly, withdrawal of this objection is respectfully requested.

#### ***Objections to the Specification***

The Examiner objected to the specification for several informalities. In particular, the Examiner notes that on page 13, lines 24-25, the phrase, “if it is placed on a surface onto its inner surface” is unclear. For clarity, Applicants have amended this section to recite, “if the scalloped edge 54 of the dispenser 1 is placed on a surface”.

Additionally, the Examiner states that the sentence on page 14, lines 15-16 is unclear. As discussed above, Applicants have amended this sentence for clarity. The Examiner also notes that on page 21, line 11, “(Figs. 15-16)” is unclear because there is no Fig. 15 or 16. Applicants have amended this inadvertent error to properly recite “(Figs. 6-8)”. Applicants also amended the term “hair” on page 21, line 23 to “air”, and thank the Examiner for pointing out this typographical error.

While reviewing the specification, Applicants also found two additional typographical error and have thus amended the specification. Accordingly, on page 15, line 27, “hood 111” has been amended to “hood 105”, and on page 20, line 11, “final cup” has been amended to recite “fuel cup”.

Accordingly, withdrawal of this objection is respectfully requested.

***Objections to the Claims***

Claim 9 is objected to as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicants have canceled claim 9.

Accordingly, withdrawal of this objection is respectfully requested.

***Rejections under 35 U.S.C. §112***

The Examiner rejected claims 3, 5, 7-9, and 20 under 35 U.S.C. §112, second paragraph, as being indefinite. In particular, the Examiner states that in claim 3, the terms “one substance” and “the other substance” are vague and indefinite since “at least two chemical compositions” is set forth in previous claim 1. For consistency, Applicants have amended claims 3 and 4 to recite a first chemical composition and a second chemical composition, in view of amendments made in claim 1.

With respect to claim 7, the Examiner states that the phrase “openings in the container” render the claim indefinite because “first and second containers” was previously set forth. For consistency, Applicants have amended claim 7 to recite “openings in the second container”.

In regard to claim 20, the Examiner contends that the claim is vague and indefinite because the basic structure in order for the device to perform the function has not been set forth. Claim 20 has been amended to depend from claim 14, which should provide sufficient structure.

Accordingly, withdrawal of the rejection of claims 3, 5, 7-9, and 20 under 35 U.S.C. §112 is respectfully requested.

***Rejections Under 35 U.S.C. §102***

**Simchoni**

The Examiner rejected claims 1, 2, 6, 7-9, 14, and 24 under 35 U.S.C. §102(e) as being anticipated by Simchoni et al. (U.S. Patent No. 6,516,559). As discussed below, Applicants have amended independent claim 1 and 7 to clearly distinguish over Simchoni, and have canceled claim 24 to further prosecution. Applicants, however, respectfully traverse the rejections of independent claims 6 and 14.

As amended, independent claim 1 is directed to a method of disposing insects and arthropods. *A first chemical composition in a first container, a second chemical composition in a second container, and a valve in fluid communication with at least one of the first and second containers* is provided. The method includes *adjusting the valve to react the first chemical composition with the second chemical composition* to generate carbon dioxide over a time of at least about several hours at levels in excess of ambient levels of carbon dioxide in the atmosphere, sufficient to be detected by insects and arthropods, and trapping the insects and arthropods attracted by the carbon dioxide emission for disposition.

Simchoni discloses a method and device for trapping insects, having both a chemical and a physical attractant. The device generally includes a tube 12 with an opening 14. The chemical attractant may include carbon dioxide generated by yeast mixed with sucrose in a vessel 24, which ferments to emit carbon dioxide out through exhaust outlet 26 into the tube 12. The physical attractant may include a heated black panel 22 that is covered with an adhesive located within the tube 12. Insects are attracted to the carbon dioxide generated within the vessel 24, and are thus drawn into the tube 12. Insects are further attracted to the heated panel 22. The insects are then trapped once they come into contact with the adhesive panel.

Simchoni, however, does not include *a first chemical composition in a first container, a second chemical composition in a second container, and a valve in fluid communication with at least one of the first and second containers, whereby one adjusts the valve to react the first chemical composition with the second chemical composition to generate carbon dioxide*, as recited in amended claim 1. The Office Action contends that Simchoni discloses first and second containers because the yeast may be in a capsule located within the vessel 24. However, even were one to assume that a capsule is a container, Simchoni still fails to illustrate a valve. Thus, amended claim 1 patentably distinguishes over Simchoni, such that the rejection under §102 should be withdrawn.

Claim 2 depends from claim 1 and is patentable for at least the same reasons.

Independent claim 6 is directed to an insect/arthropod trap. The trap includes means for attracting insects and arthropods having a composition for emitting carbon dioxide in excess of ambient levels of carbon dioxide in the atmosphere over a period of at least several hours on interaction of the composition with an activating fluid, a container for the fluid, and *a control for*

*metering the flow of the fluid into contact with the composition.* It further includes a trap positioned adjacent the means containing the composition for trapping insects and arthropods.

Simchoni fails to disclose *a control for metering the flow of fluid*, as recited in claim 6. Simchoni simply discloses adding yeast into the vessel and mixing with a nutritional substance, such as sucrose, to create carbon dioxide through a fermentation process. Thus, claim 6 patentably distinguishes over Simchoni, such that the rejection under §102 should be withdrawn.

As amended, independent claim 7 is directed to an insect/arthropod trap. The trap includes first and second containers for holding separate materials and *an opening disposed between the first and second containers to selectively mix the materials together*, where the materials are mixed together in the second container to generate an insect/arthropod attracting gas. The trap further includes openings in the second container enabling the gas to escape therefrom, and a member associated with one of the containers and having a surface on which an adhesive is applied for capturing insects attracted by the gas that alight on said surface.

The Office Action contends that a capsule of yeast would be one of the containers. However, even were one to take this position, Simchoni fails to disclose *an opening disposed between the first and second containers to selectively mix the materials together*, as recited in amended claim 7. Thus, amended claim 7 patentably distinguishes over Simchoni, such that the rejection under §102 should be withdrawn.

Claim 8 depends from claim 7 and is patentable for at least the same reasons.

Independent claim 14 is directed to an insect/arthropod trap including a base having a surface for receiving an adhesive for capturing arthropods, a container for holding a solid chemical for generating an arthropod attracting gaseous phase when mixed with a fluid, and a second container disposed adjacent the first container for supplying fluid to the first container to generate the arthropod attracting gaseous phase. The trap further includes a hood having a surface for receiving an adhesive for capturing arthropods, and *a connector joining the two containers for conveying fluid from the second container to the first container* when the arthropod attracting gaseous phase is to be generated.

Simchoni fails to disclose *a connector joining the two containers for conveying fluid from the second container to the first container when the arthropod attracting gaseous phase is to be generated.*, as recited in claim 14. Thus, claim 14 patentably distinguishes over Simchoni, such that the rejection under §102 should be withdrawn.

Claims 9 and 24 have been canceled to further prosecution.

Accordingly, withdrawal of this rejection is respectfully requested.

Brittin

The Examiner rejected claims 1-6, 19, and 21 under 35 U.S.C. §102(e) as being anticipated by Brittin et al. (U.S. Patent No. 6,209,256). As discussed below, Applicants have amended independent claim 1 to clearly distinguish over Brittin, and have amended claim 19 to now depend from claim 14 to further prosecution. Applicants, however, respectfully traverse the rejection of independent claim 6.

Amended independent claim 1 is discussed above.

Brittin discloses a trap for attracting and killing insects which utilizes carbon dioxide as an attractant. The carbon dioxide is either generated, or dispersed directly into, a trapping media. The carbon dioxide bubbles through the trapping media up to the surface. Therefore, insects are attracted to the surface of the trapping media. When the carbon dioxide is generated within the device by an acid/base reaction, the acid may be within the trapping media itself. The base may be either in solid form, with or without a semi-permeable container, or it may be in a powder form added directly to the surface layer of the trapping media.

However, Brittin fails to disclose *a first chemical composition in a first container, a second chemical composition in a second container, and a valve in fluid communication with at least one of the first and second containers, whereby one adjusts the valve to react the first chemical composition with the second chemical composition* to generate carbon dioxide, as recited in amended claim 1. Thus, claim 1 patentably distinguishes over Brittin, such that the rejection under §102 should be withdrawn.

Claim 2-5 depend from claim 1 and are patentable for at least the same reasons.

Claim 6 is discussed above.

Britten fails to disclose *a control for metering the flow of fluid*, as recited in claim 6. Britten simply discloses an acid/base reaction to create carbon dioxide. Thus, claim 6 patentably distinguishes over Simchoni, such that the rejection under §102 should be withdrawn.

Claim 19 has been amended to depend from claim 14, which was not rejected in view of Brittin. Claim 21 depends from claim 19 and is patentable for at least the same reasons.

Accordingly, withdrawal of this rejection is respectfully requested.

Waters

The Examiner rejected claims 1-4 under 35 U.S.C. §102(e) as being anticipated by Waters (U.S. Patent No. 4,506,473). Applicants have amended independent claim 1 to clearly distinguish over Waters.

Independent claim 1 is discussed above.

Waters is directed to a method and device for chemically generating carbon dioxide for use as an insect attractant used in combination with an insect trap. A container 12 functions as a reaction chamber, and it has a compartment 13 within the container. Carbon dioxide is generated when an acid solution within the compartment 13 is combined with carbonate salt in the reaction chamber. In one example, the acid solution is brought into contact with the carbonate salt when an external force is applied to the compartment which ruptures the compartment. A tube 14 connecting the device to an insect trap then conveys the carbon dioxide attractant to the insect trap.

Waters, however, fails to disclose *a valve in fluid communication with at least one of the first and second containers, whereby one adjusts the valve to react the first chemical composition with the second chemical composition* to generate carbon dioxide, as recited in amended claim 1. Thus, amended claim 1 patentably distinguishes over Waters, such that the rejection under §102 should be withdrawn.

Claims 2-4 depends from claim 1 and are patentable for at least the same reasons.

***Rejections Under 35 U.S.C. §103***

The Examiner rejected claims 4, 5, and 15-17 under 35 U.S.C. §103(a) as being unpatentable over Simchoni in view of Brittin or Waters or Carter (U.S. Patent No. 6,546,667), or Heath (U.S. Patent No. 5,907,923). Claim 20 was also rejected as being unpatentable over Brittin or Waters in view of Carter.

Without acceding to the propriety of the reference combination nor the rejection grounded thereon, claims 4, 5, and 15-17 depend from independent claims 1 and 14, respectively, and are patentable for at least the same reasons set forth above. Further, claim 20 was amended to now depend from independent claim 14, and is also patentable for at least the same reasons as set forth above. Accordingly, the rejection of these claims should be withdrawn.

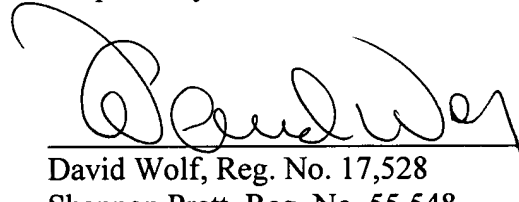
**CONCLUSION**

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee, that is not covered by an enclosed check, please charge any deficiency to Deposit Account No. 23/2825.

Respectfully submitted,

By:

A handwritten signature in dark ink, appearing to read 'David Wolf', is written over a horizontal line.

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